

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

CARL EUGENE MULLINS.

Plaintiff.

vs.

THE SYCUAN BAND OF THE KUMEYAAY NATION: et al..

Defendants.

CASE NO. 08cv0870-LAB (JMA)

**ORDER TO SHOW CAUSE RE:
ATTORNEY ADMISSION; AND**

**ORDER DENYING REQUEST
FOR ORDER REQUIRING
MARSHALS' ASSISTANCE WITH
SERVICE OF PROCESS**

18 On May 12, 2008, counsel for Plaintiff filed the Complaint in this action. The attorney,
19 Ray A. Johnston, whose firm is located in Wilburton, Oklahoma, gives his Oklahoma bar
20 number and a Post Office box in Wilburton as his firm's street address. It does not appear
21 Mr. Johnston is admitted to the California bar or admitted to practice before this Court.

22 The Civil Cover Sheet attached to the Complaint states Mr. Johnston has paid the fee
23 for admission *pro hac vice*, but in fact it does not appear he has submitted an application for
24 admission *pro hac vice*. See Civil Local Rule 83.3(c)(5) (requiring submission of a *pro hac*
25 vice application with the fee). It appears Mr. Johnston's appearance in this case is in
26 violation of Civil Local Rule 83.3(b) and (c)(2); and that, unless he is admitted to practice
27 before this Court, his future representation of Plaintiff in this case would constitute an
28 additional violation of these rules. See Civil Local Rule 83.3(i).

1 Plaintiff is therefore **ORDERED TO SHOW CAUSE** in one of the following ways why
2 this action should not be dismissed without prejudice:

3 1. Plaintiff may file a motion either to substitute in as counsel an attorney who
4 is admitted to practice before this Court, or to proceed *in pro per*. See Civil
Local Rule 83.3(g);

5 2. Mr. Johnston may submit a properly-completed petition for admission to
6 practice before this Court, see Civil Local Rule 83.3(c)(1)(b), or application for
7 admission *pro hac vice*. See Civil Local Rule 83.3(c)(5). Plaintiff's counsel
8 must also comply with the other requirements of Rule 83.3(c)(1)(b) or (c)(5),
including payment of fees. Future pleadings must comply with Civil Local
Rule 5.1(j)(1), including the requirement of stating the attorney's office
address; or

9 3. If Plaintiff believes Mr. Johnston has in fact been admitted to practice
10 before this Court, he may file a memorandum of points and authorities no
longer than three pages in length (not counting any appended or lodged
11 material) so showing.

12 Except for Plaintiff's responses as permitted under 1 or 3 above, Plaintiff's counsel
13 shall make no further filings in this case until he has been admitted to practice before this
14 Court. Plaintiff must show cause as ordered no later than **30 calendar days from the date**
15 **this order is issued. If he fails to do so, his complaint will be dismissed without**
16 **prejudice for violation of the Civil Local Rules.** See Civil Local Rule 83.1(a).

17 The Complaint contains a request for an order requiring the U.S. Marshals' office to
18 serve the complaint and summons. (Compl. at 2.) The Complaint further requests the Court
19 to order the U.S. Marshals' office to contact Mr. Johnston and provide him with information
20 regarding how service can be effected. Plaintiff is not proceeding *in forma pauperis*, so he
21 is not entitled to have the complaint and summons served by the Marshals, see Fed. R. Civ.
22 P. 4(c)(3), and he provides no other reason why his request should be granted. See Advisory
23 Committee Notes to 1993 Amendment. Furthermore, this request should have been filed
24 as a motion, and not simply included in the body of the Complaint. This request is therefore
25 **DENIED.**

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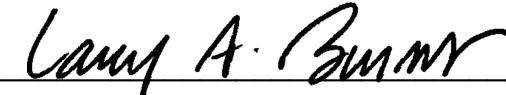
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1 Finally, any further filings shall comply with Civil Local Rule 5.1(a)'s requirements,
2 including requirements regarding line numbering.

3 **IT IS SO ORDERED.**

4 DATED: 6-10-08



5 **HONORABLE LARRY ALAN BURNS**
6 United States District Judge

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